

[Daniel Barlow, Vermont Press Bureau](#)

U.S. Rep. Peter Welch is worried that BP may use a little-known tax loophole to write off any legal damages the company pays from the Gulf Coast oil spill, essentially making taxpayers pitch in for their mess.

Welch, a Vermont Democrat, introduced a bill called the Stop Deducting Damages Act in the U.S. House last week, which would stop companies from avoiding federal taxes by writing off any punitive damages from lawsuits as "ordinary business expenses."

Closing the loophole would save about \$315 million over 10 years, he said.

"I think a lot of taxpayers would be surprised to learn that they help pay the tab for polluters," Welch said during an interview Monday morning. "Losing a lawsuit should not qualify a company for a tax break."

Federal tax code now treats punitive damages awarded in lawsuits against corporations as "ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business," according to Title 26 of the U.S. Tax Code.

That means companies like Exxon-Mobil, which paid out \$500 million to settle lawsuits following the 1989 Exxon Valdez oil spill, could deduct that amount from its federal taxes, saving the company about \$200 million, according to Welch.

The same year that company paid out those damages it reported a profit of \$36.1 billion.

"For these companies, this is business as usual," Welch said. "Meanwhile, taxpayers end up paying a good portion of their damages."

Welch said he is worried that BP, the company that leased the offshore oil rig that exploded and caused the largest oil spill in U.S. history, could use this loophole to skirt its responsibility to fully pay for the all the damages itself.

"We're already hearing reports that they are scaling back the cleanup," Welch said.

Welch's introduction of the bill came one day before the U.S. House voted on a related piece of legislation: The CLEAR Act, which strengthens safety standards for offshore drilling, eliminates liability caps, increases federal oversight and establishes a restoration program for the Gulf Coast.

That bill passed the House in a 209-193 vote last Friday.

Also included in that bill was the closing of another tax loophole that allowed companies to not pay leases to the U.S. government for drilling for oil on public lands and another provision that would hold a parent company responsible for cleanup if a subsidiary goes bankrupt.

Welch said it was ridiculous that federal law placed a \$75 million cap on the damages a company could pay for an accident. In the bill passed last week, a company is now responsible for the complete cleanup costs.

The congressman added that he is frustrated that many of the bills passed this year by the House haven't even come up for a vote yet in the U.S. Senate, where Republicans have successfully used the threat of a filibuster to block votes on key issues.

Traditionally the Senate can pass a law with yes votes from 51 of the 100 senators. But the filibuster rules allows the minority party in the Senate to block many votes unless a coalition of 60 members allow debate to go forward.

Right now there are 57 Democrats in the Senate and two independents, including Vermont's U.S. Sen. Bernard Sanders.

"Important legislation has been held up because Republicans insist on the 60 vote rule," Welch said.

Welch is running for a third term in the House this year. He does not face a primary challenger, but several Republicans are competing to replace him.